

1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 15:050. Filing dates and extensions.

5 RELATES TO: KRS 131.081(11), 131.170, 136.100, 141.042, 141.160, 141.170, 141.300

6 STATUTORY AUTHORITY: KRS 131.130(1), 141.042(6), 141.050(4), 141.300(6)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.081(10), 131.170, 141.042(6), and
8 141.170 authorize the Department of Revenue [~~Cabinet~~] to grant a taxpayer an extension of time to file a
9 tax return or to pay an installment of estimated income tax. This administrative regulation establishes the
10 procedures to be used by an individual, a corporation, or a noncorporate entity to obtain an extension of
11 time to file an income or limited liability entity [~~corporation license~~] tax return or to pay an installment of
12 estimated income tax for a taxable year.

13 Section 1. Definitions. (1) "Corporation" means a corporation as defined in KRS 141.010(24), an S
14 corporation as defined in KRS 141.010(27)[~~(25)~~], a limited liability company taxed as a corporation, or
15 other entity taxed as a corporation for Kentucky income tax purposes;

16 (2) "Date prescribed by KRS 136.100 or 141.160" means the 15th day of the fourth month following
17 the close of the taxable year; and

18 (3) "Noncorporate entity" means a partnership, a limited liability company treated as a partnership, a
19 trust, a fiduciary, or other entity not taxed as a corporation for Kentucky income tax purposes.

20 Section 2. An Extension of Time for Filing an Income or Corporation [~~License~~] Tax Return. (1) Pursuant
21 to KRS 131.081(11) and 141.170, a taxpayer may obtain an extension of time for filing a Kentucky income
22 tax return by means of either a federal extension or a Kentucky extension.

1 (2) Federal extension.

2 (a) A taxpayer granted an extension of time for filing a federal income tax return shall be granted the
3 same extension of time for filing a Kentucky income tax return for the same taxable year if a copy of the
4 federal extension approval or request for an automatic extension is attached to the Kentucky income tax
5 return when it is filed.

6 (b) An extension of time for filing a Kentucky income tax return granted pursuant to this subsection
7 shall be valid for the extension period granted by the Internal Revenue Service.

8 (c) A copy of the federal extension shall not be mailed to the department~~[Revenue Cabinet]~~ on or before
9 the date prescribed by KRS 141.160, except as provided in Section 3 of this administrative regulation.

10 (3) Kentucky extension. A taxpayer may file an application for extension with the department~~[Revenue~~
11 ~~Cabinet]~~, on or before the date prescribed by KRS 141.160 for filing the return.

12 (a) An individual or a noncorporate entity shall file an "Application for Extension of Time to File
13 Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky", Revenue Form 40A102.

14 1. An individual or a noncorporate entity shall state the reason for the request on the application for
15 extension. Inability to pay the tax liability shall not be a valid reason.

16 2. An individual or a noncorporate entity shall be notified by mail if the application for extension is
17 denied. A copy of an approved application for extension shall not be returned to the individual or
18 noncorporate entity.

19 3. An individual or a noncorporate entity shall be granted an extension of time to file for six (6) months
20 unless the application for extension is denied.

21 4. An individual outside the United States shall be granted an extension of time to file for twelve (12)
22 months unless the application for extension is denied.

23 5. A copy of the signed and dated application for extension shall be attached to the income tax return
24 when it is filed.

25 (b) A corporation shall file an "[~~Application for Six-month~~]Extension of Time to File Kentucky
26 Corporation/LLET~~[Income and License Tax]~~ Return", Revenue Form 41A720SL.

1 1. A corporation shall be granted an extension of time to file for six (6) months.

2 2. A copy of an approved application for extension shall not be returned to the corporation.

3 3. The extension shall become valid when mailed to the department~~[Revenue Cabinet]~~ on or before the
4 date prescribed by KRS 141.160 for filing the return.

5 4. The corporation shall attach a copy of the signed and dated application for extension to its "Kentucky
6 Corporation Income Tax And LLET ~~[And License Tax]~~ Return", Revenue Form 71A720~~[720]~~, when it is
7 filed.

8 (4) An extension of time for filing a consolidated Kentucky corporation income tax return shall
9 constitute an extension of time for filing for each member of the affiliated group.

10 (5) An extension of time for filing a corporation income tax return shall constitute an extension of time
11 for filing a limited liability entity~~[corporation license]~~ tax return for the same taxable year.

12 Section 3. Payment of Tax. (1) An extension of time to file an income or limited liability
13 entity~~[corporation license]~~ tax return shall not constitute an extension of time to pay the tax.

14 (2) A taxpayer shall determine if an amount of tax remains unpaid on or before the date prescribed by
15 KRS 136.100 or 141.160 for filing the return.

16 (3) If tax remains unpaid, a check for the amount of the unpaid tax shall be submitted to the
17 department~~[Revenue Cabinet]~~ on or before the date prescribed by KRS 136.100 or 141.160 for filing the
18 return along with the Kentucky extension or a copy of the federal extension.

19 (4) A corporation shall write its Kentucky Account Number in the upper right hand corner of the federal
20 extension submitted.

21 (5) An affiliated group filing a mandatory nexus consolidated income tax return and making a payment
22 of tax with the application for extension shall file a Kentucky extension to ensure the proper processing of
23 payments.

24 Section 4. Interest and Penalties. (1) Statutory interest shall be paid from the date prescribed by KRS
25 136.100 or 141.160 for filing the return until the tax is paid.

(2) If the envelope bearing the return is postmarked on or before the filing date, a late filing penalty shall not apply.

Section 5. Extension of Time to Pay Estimated Income Tax. (1) A request for an extension of time to pay an installment of estimated tax prescribed by KRS 141.042 and 141.300 shall be submitted to the Department of Revenue~~[Cabinet]~~, Frankfort, Kentucky 40620.

(2) The request shall state a basis for the extension.

(3) An extension of time to pay an installment of estimated tax shall be granted for thirty (30) days under exceptional circumstances.

(4) Interest shall be paid from the due date of the installment of estimated tax until the tax is paid.

Section 6. The forms and materials listed herein~~[Incorporation by Reference. (1) The following forms are incorporated by reference:~~


~~—(a) "Application for Extension of Time to File Individual, Partnership and Fiduciary Income Tax Returns for Kentucky", Revenue Form 40A102, (9-97); and~~

~~—(b) "Application for Six-month Extension of Time to File Kentucky Corporation Income and License Tax Return", Revenue Form 41A720SL, (9-97).~~

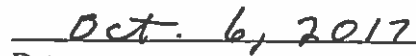
~~—(2) These forms]~~ may be obtained or inspected, subject to applicable copyright law, at the Kentucky Department of Revenue, 501 High Street, ~~[Revenue Cabinet, 200 Fair Oaks Lane,]~~ Frankfort, Kentucky 40601~~[40620]~~, on the department website at <http://revenue.ky.gov>, or at a Kentucky Department of Revenue ~~[Cabinet]~~ Taxpayer Service Center during hours of operation~~[, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

103 KAR 15:050

APPROVED BY AGENCY:



DANIEL P. BORK, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet



Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on November 28, 2017, at 1:00 p.m. in Room 11A, Department of Revenue, 501 High Street, Frankfort KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3874 (fax), Lisa.Swiger@ky.gov(email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 15:050

Contact Person: Lisa Swiger

Phone Number: (502) 564-9526

Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: Amends KRS 15:050 to remove outdated language no longer applicable.

(b) The necessity of this administrative regulation: To provide the most accurate and up to date information for Kentucky taxpayers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By ensuring that statutory revisions are incorporated into affected regulations and passed down to those affected by the change.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Correcting outdated or incorrect language in regulations help to decrease call volume to the department and confusion regarding the deficient information.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment replaces incorrect references to the Kentucky Revenue "cabinet" with "department" under the authority of KRS 131.020 that reorganized the Kentucky Revenue Cabinet into the Department of Revenue in 2005; and removed references to forms "incorporated by reference" that are no longer incorporated in a forms regulation and are now only prescribed on the department website.

(b) The necessity of the amendment to this administrative regulation: The current regulation as written is outdated and deficient. This amendment will bring the regulation in line with the most up to date authorizing statutory language.

(c) How the amendment conforms to the content of the authorizing statutes: It replaces outdated language or references that have been replaced by statutory revisions.

(d) How the amendment will assist in the effective administration of the statutes: By decreasing call volume to the department and confusion regarding the deficient information.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Anyone wishing to know the departments policy for granting an extension of time to file a tax return or pay an installment of tax due.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There are no required actions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost required to comply with this change.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be less confusion and work by following the correct process to obtain an extension of time to file or pay an installment of tax due.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There will be no additional cost to the department by filing this update.

(a) Initially: No additional costs outside current department funding will be used.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current departmental budgetary funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is needed to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees were established with this amendment.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied. All taxpayers wishing to file a claim for refund with the department will all be treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 15:050

Contact Person: Lisa Swiger

Phone Number: (502) 564-9526

Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.081, 131.130, 131.170, 141.042, 141.050 and 141.300.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated by the revisions made to this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:
